

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Greenbelt Division

GREGORY RANDOLPH	:	
	:	
Plaintiff,	:	
v.	:	Civil Action No. 8:13-cv-01696-PWG
	:	
POWERCOMM CONSTRUCTION, INC., <i>et al.</i>	:	
	:	
Defendants	:	

**MOTION FOR ORDER PROHIBITING PLAINTIFF  
AND HIS REPRESENTATIVES FROM CONTACTING DEFENDANTS' CURRENT  
AND FORMER EMPLOYEES TELEPHONICALLY, BY E-MAIL AND/OR IN PERSON**

Defendants PowerComm Construction, Inc. and David Kwasnik, Sr. (“Kwasnik”) (collectively “PowerComm”), by and through undersigned counsel, and pursuant to Local Rule 105 and Rules 7 and 26 of the Federal Rules of Civil Procedure, move for an Order Prohibiting Plaintiff and His Representatives from Contacting Defendants’ Current and Former Employees Telephonically, by E-Mail and/or In Person. In support thereof, they state as follows:

1. Plaintiff’s counsel has repeatedly contacted or tried to contact PowerComm’s foreman in an effort to personally solicit him to join plaintiff’s captioned class action lawsuit and to have him assist in soliciting others. Plaintiff’s counsel did not inquire with PowerComm’s foreman whether he was an employee whose contact was prohibited by the Maryland Rules of Professional Conduct (“MRPC”). PowerComm’s foreman advised plaintiff’s counsel he did not want to be a client or further assist plaintiff’s counsel, and hung up the telephone on plaintiff’s counsel. Subsequently, plaintiff’s counsel tried to contact PowerComm’s foreman on at least three (3) different occasions in an effort to solicit him for plaintiff’s lawsuit. PowerComm’s

foreman was harassed by plaintiff's counsel. Such conduct by plaintiff's counsel squarely violates the Maryland Rules of Professional Conduct ("MRPC").

2. Upon learning of these improper communications, on July 16, 2013, defendants' counsel advised plaintiff's counsel in writing to cease this unethical conduct. Later that same day, plaintiff's counsel responded in writing. Far from denying his conduct, plaintiff's counsel defended it, pointing to unpublished cases from the United States Court of Appeals, Eleventh Circuit, and the United States District Court, District of D.C. (a brief order from a Magistrate Judge). Plaintiff's counsel appears to believe that these cases nullify the MRPC, and this Court's application of the MRPC. Additionally, plaintiff's counsel characterized the assertion of improper conduct as "frivolous."

3. Plaintiff's counsel continues to harass and personally solicit plaintiff's current employees and management employees.

WHEREFORE, given the above good and valid reasons, PowerComm respectfully requests that the Court enter the Order appended hereto, granting its Motion for an Order Prohibiting Plaintiff and His Representatives from Contacting Defendants' Current and Former Employees Telephonically, by E-Mail and/or In Person. Additionally, since any clients acquired by plaintiff's counsel through direct solicitation were acquired in violation of Maryland law, PowerComm further requests that plaintiff's counsel be barred from representing any such clients in the captioned lawsuit. Finally, PowerComm requests its costs and attorneys' fees incurred related to the subject Motion, since plaintiff's counsel has continued his unethical conduct, despite warning notice from PowerComm.

POWERCOMM CONSTRUCTION, INC.  
DAVID KWASNIK SR.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26<sup>th</sup> day of July, 2013, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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/S/ Geoffrey M. Bohn  
Geoffrey M. Bohn